

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0365 MVE

Motor Vehicle Excise Tax

For Tax Period: 9/30/96 Through 9/30/98

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-13-2-78; IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on her 1994 Chevrolet.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1

Taxpayer protests the imposition of a ten percent penalty on the failure to pay the motor vehicle excise tax.

STATEMENT OF FACTS

Taxpayer was assessed the motor vehicle excise tax on her 1994 Chevrolet for the period September, 1996 through September, 1998. Taxpayer protested the assessment and claimed she was not an Indiana resident for the entire assessment period. Additional relevant facts will be provided below, as necessary.

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code section 9-18-2-1, within sixty days of becoming an Indiana resident, a person

must register all motor vehicles owned by that person that will be operated in Indiana.

Indiana Code section 9-13-2-78 defines “Indiana resident” as a person who is *one* of the following:

- (1) A person who has been living in Indiana for at least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:
 - (A) Attending an institution of higher education.
 - (B) Serving on active duty in the armed forces of the United States.
- (2) A person who is living in Indiana if the person has no other legal residence.
- (3) A person who is registered to vote in Indiana.
- (4) A person who has a child enrolled in an elementary or secondary school located in Indiana.
- (5) A person who has more than one-half (1/2) of the person’s gross income derived from sources in Indiana ... However, a person who is considered a resident under this subdivision is not a resident if the person proves by a preponderance of the evidence that the person is not a resident under subdivisions (1) through (4).

Emphasis added.

Taxpayer protests the motor vehicle excise tax assessment and claims she was a resident of Florida for a portion of the assessment period. Taxpayer further claims that after establishing residency in Indiana she had difficulty in acquiring her vehicle title (from the lienholder) for the transfer to Indiana. Taxpayer asserts this difficulty excuses her failure to properly license and register the vehicle in Indiana because Indiana refused to issue a registration without first transferring the title. Taxpayer also claims an agent of her Indiana license branch told her she could continue to license and register the vehicle in Florida after becoming an Indiana resident.

Taxpayer moved to Indiana in the Fall of 1996 to begin work. Taxpayer claims she did not intend to stay in Indiana at that time. Taxpayer filed an Indiana Part- Year or Nonresident Individual Income Tax Return for 1996. Taxpayer listed an Indiana address on the return and provided W-2’s from Indiana. Taxpayer provided no evidence of her continuing residency in Florida for this portion of the assessment period. Taxpayer filed an Indiana Full- Year Resident Return for tax year 1997.

Taxpayer concedes she intended to establish residency in Indiana in September, 1997. At that time, the taxpayer attempted to transfer the vehicle’s title to Indiana. Taxpayer was not able to acquire the title from the lienholder for an extended period of time. As such, Indiana’s Bureau of Motor Vehicles could not issue a registration on the 1994 Chevrolet.

FINDING

Taxpayer's protest is denied. Taxpayer has failed to prove she was not a resident of Indiana for any portion of the assessment period. Taxpayer is also ultimately responsible for properly licensing and registering her vehicle in Indiana. The lack of cooperation from her lienholder does not change her responsibility.

II. Tax Administration – Penalty

DISCUSSION

Indiana Code section 6-8.1-10-2.1 states in part,

(d) If a person subject to the penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty.

Taxpayer has provided the Department with a letter from Indiana's Bureau of Motor Vehicles Commission explaining the difficulty with transferring the vehicle's title. Taxpayer first attempted to transfer the title in the Fall of 1997. Taxpayer argues this is reasonable cause for her failure to pay the motor vehicle excise tax and urges the penalty should be abated.

However, the Department finds the taxpayer is liable for the motor vehicle excise tax beginning in September of 1996 (See Issue I). Taxpayer has offered no reasonable cause for her failure to attempt to title, license and register the 1994 Chevrolet in September, 1996 other than she did not know she was required to do so.

FINDING

Taxpayer's protest is denied.